

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LUIS MIGUEL SAGRERO-ALBA,

Defendant-Appellant.

No.: 2:09-cr-00466-PMP-LRL

USCA No. 11-10544

ORDER

On October 3, 2011, following his plea of guilty to a one count Superseding Indictment, this Court entered Judgment and sentenced Defendant Luis Miguel Sagrero-Alba to a term of 151 months custody followed by 5 years supervised release. (Minutes (Doc. #139); Judgment (Doc. #147)). Defendant Sagrero-Alba's trial counsel was permitted to withdraw on October 7, 2011, and on October 20, 2011, new counsel was appointed to represent Defendant Sagrero-Alba on appeal. (Order (Doc. #151); Order (Doc. #159)). Defendant's Notice of Appeal (Doc. #160) was filed two days later on October 22, 2011.

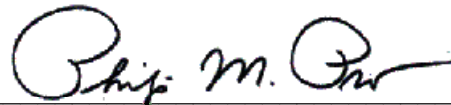
On October 28, 2011, Peter L. Shaw, Appellate Commissioner for the United States Court of Appeals for the Ninth Circuit, entered an Order noting that Defendant Sagrero-Alba's Notice of Appeal was untimely because it was filed more than 14 days after entry of Judgment, but within 30 days after expiration of the time to file the Notice of Appeal. In accord with Circuit Court policy, the case was remanded to this Court for the limited purpose of permitting the District Court to provide Appellant Sagrero-Alba notice and an opportunity to request that the time for filing the Notice of Appeal be extended for a

1 period not to exceed 30 days based on a showing of excusable neglect. (Order of USCA
2 (Doc. #166)).

3 Unfortunately, it appears the docketing guidelines for the case
4 management/electronic case filing system for the United States District Courts (CM/ECF)
5 do not provide for the capture of such orders as that issued by the Commissioner as an
6 action item for consideration by the District Court. As a result, this Court did not become
7 aware of the pendency of the Commissioner's Order of October 28, 2011, until July 11,
8 2012.

9 IT IS THEREFORE ORDERED that counsel for Defendant Sagrero-Alba shall
10 have until July 31, 2012, within which to advise the Court of the grounds providing
11 excusable neglect for the untimely filing of Defendant's Notice of Appeal (Doc. #160).

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13 DATED: July 12, 2012

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15 PHILIP M. PRO
16 United States District Judge
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